

State of California  
AIR RESOURCES BOARD

**Final Statement of Reasons for Rulemaking,  
Including Summary of Comments and Agency Responses**

**PUBLIC HEARING TO CONSIDER ADOPTION  
OF PROPOSED AMENDMENTS TO THE TABLES OF  
MAXIMUM INCREMENTAL REACTIVITY (MIR) VALUES**

**Public Hearing Date: December 3, 2003  
Agenda Item No: 03-1-1**

March 10, 2004

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**I. GENERAL**

The Initial Statement of Reasons for Proposed Amendments to the Tables of Maximum Incremental Reactivity (MIR) Values (ISOR), released to the public on October 17, 2003, provides a description of the rationale and necessity for the proposed action, and is incorporated by reference herein.

On December 3, 2003, the Chief of the Research Division, Bart Croes (the "hearing officer"), conducted a public hearing to consider the adoption of proposed amendments to the Tables of Maximum Incremental Reactivity (MIR) Values contained in section 94700, title 17, California Code of Regulations (CCR). The hearing was conducted in accordance with a delegation of authority from the Air Resources Board (the "ARB" or "Board") and from the Executive Officer pursuant to Health and Safety Code sections 39515 and 39516.

This delegation of authority originated in Resolution 00-22, which was approved by the Board at a June 22, 2000, public hearing. At the June 22, 2000, public hearing, the Board approved amendments to the Regulation for Reducing the Ozone Formed from Aerosol Coating Products (the "Aerosol Coating Products Regulation;" sections 94520–94528, title 17, CCR), and Proposed Tables of Maximum Incremental Reactivity (MIR) Values (new subchapter 8.6, sections 94700 and 94701, title 17, CCR). The main component of the rulemaking was to establish reactivity limits for 36 aerosol coating categories based on the MIR scale. The amendments became legally effective on July 18, 2001.

In Resolution 00-22, which approved the amendments, the Board directed the Executive Officer to review the MIR values 18 months after the effective date of amendments, and every 18 months thereafter, to determine if modifications to the MIR values are warranted. Since any changes to the MIR values would be technical in nature, the Board also delegated to the Executive Officer the authority to adopt regulatory amendments to the Tables of MIR Values, and to conduct public hearings and take other appropriate actions to make such amendments. This delegation of authority allows the Executive Officer (or his

delegate) to conduct these activities on behalf of the Board, as provided in Health and Safety Code sections 39515 and 39516. ARB Executive Officer Catherine Witherspoon in turn delegated to the hearing officer the authority to conduct a public hearing to consider amendments to the Tables of MIR Values.

Following the December 3, 2003, public hearing, the hearing officer prepared a Hearing Officer's Report. The Hearing Officer's Report contains the findings, conclusions, and a recommendation by the hearing officer, and recommends that the Executive Officer adopt the regulatory action proposed by ARB staff. The Executive Officer subsequently adopted the proposed regulatory action by signing Executive Order G-03-065. The amendments to the Tables of MIR Values contained in section 94700, title 17, CCR, were adopted as originally proposed by ARB staff, with no changes. The Hearing Officer's Report is attached to this Final Statement of Reasons as Appendix A.

The ARB has determined pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6) that this regulatory action will not create costs or savings to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other nondiscretionary savings to state or local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on private persons and businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. In accordance with Government Code sections 11346.3 and 11346.5(a)(10), the ARB has determined that the proposed amendments should have minimal or no impacts on the creation or elimination of jobs within the state of California, minimal or no impacts on the creation of new businesses and the elimination of existing businesses within the state of California, and minimal or no impacts on the expansion of businesses currently doing business within the state of California. Finally, the ARB has determined that adoption of the regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California's businesses to compete with businesses in other states, or on representative private persons.

No member of the public suggested any alternatives to the proposed amendments during the 45-day comment period or at the public hearing. The ARB has determined that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which this regulatory action was proposed, or would be as effective and less burdensome to affected private persons or businesses, than the action taken by the ARB.

## **II. SUMMARY OF COMMENTS AND AGENCY RESPONSES**

Two written comment letters were received during the 45-day public comment period prior to the December 3, 2003 hearing. Both letters expressed support for the proposed amendments and recommended that they be adopted by the ARB. A list of the commenters is set forth below:

Doug Raymond  
Director, Regulatory Affairs  
Sherwin-Williams Diversified Brands  
Date: December 2, 2003

Heidi McAuliffe  
Counsel, Government Affairs  
National Paint & Coatings Association  
Date: December 1, 2003

At the December 3, 2003 public hearing, oral testimony was provided by Sande George, a representative from the National Paint & Coatings Association and the California Paint Council. Ms. George testified in support of the proposed amendments. Since all of the commenters expressed support and did not make any objections or recommendations regarding the proposed action (other recommendations that the proposed action be adopted), no agency response is necessary except to say that ARB staff agrees with the commenters that the proposed amendments should be adopted.